IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.719 OF 2003
IN
SECOND APPEAL NO.741 OF 1997

1.Macchindra Sitaram Pathare & Anr. Applicants

Versus

Bhanudas Vishnu Pathare Respondent

Shri G.S.Godbole for applicant

Shri Apollo Meghe for respondent

CORAM : P.V.KAKADE,J.

DATE : 29TH OCTOBER, 2004

P.C.:

1. Heard both sides.

2. This is an application for vacating the stay granted by order dated 27.2.1998 in C.A. no.7058 of 1997. After hearing both the parties it is clear that the stay need not be vacated if the alternative prayers are granted. The affidavit in reply filed on behalf of the respondent shows that the Beauty Parlour allegedly run

as hobby is also closed after the marriage of Respondent's daughter. However the facts remain that the residential suit premises was used for commercial purpose for which the learned counsel for the respondent has shown willingness to deposit the certain amount without without prejudice to the rights and liabilities of the parties. There is also prayer that the Respondent should not encroach upon the other areas of the suit house land what was rented i.e. tow rooms as per the written note of which copy produced on record. Therefore, in view of the facts and circumstances the application stands made absolute in terms of prayer clause (a-1) and (a-2).

3. The respondent to deposit the total amount of Rs.10,000/= within four weeks from the date of this order. The deposit shall be without prejudice to the rights and liabilities of the parties to be determined at the time of final hearing of the appeal. With these directions the Civil Application stands disposed of. The amount to be invested in any nationalised bank for initial period of three years.